

REMARKS

In the Office Action of January 30, 2006, the Examiner issued a restriction requirement in the present application. The Examiner identified twelve Groups of inventions based on claims 1-20..

Group I, claims 1-8 , drawn to a method of preparing an aqueous extract comprising saponins on the basis of waste product from the Shea Butter tree;

Group II, claims 9 and 12, drawn to a butter tree extract obtainable by preparing an aqueous extract comprising saponins on the basis of waste product from the Shea Butter tree;

Group III, claim 10, drawn to a method of producing an aqueous extract enriched in sapogenins;

Group IV, claim 11, drawn to a sapogenin rich extract obtainable by producing an aqueous extract enriched in saponins;

Group V, claim 13, drawn to a method of using a butter tree extract as a food additive;

Group VI, claim 14, drawn to a method of using a butter tree extract in the manufacture of a detergent;

Group VII, claim 15, drawn to a method of using butter tree extract in the manufacture of a cosmetic product;

Group VIII, claim 16, drawn to a method of using butter tree extract in the manufacture of a pharmaceutical product for topical application;

Group IX, claim 17, drawn to a method of using butter tree extract in the manufacture of a pharmaceutical product for lowering the level of serum cholesterol in a human being or other mammal;

Group X, claim 18, drawn to a method of using butter tree extract in the manufacture of a pharmaceutical product for treatment of inflammatory diseases;

Group XI, claim 19, drawn to a method of using butter tree extract in the manufacture of a pharmaceutical product for systemic administration; and

Group XII, claim 20, drawn to a method of using butter tree extract in the manufacture of a nutritional supplement.

With regard to the unity of invention issue under PCT Rule 13.1, the Examiner states that there are no special technical features which link the twelve groups of inventions under PCT Rule 13.2. Therefore, the groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1.

According to the Examiner, the specific technical feature linking the twelve inventions is the method of preparing an aqueous extract comprising saponins on the basis of waste product from the Shea Butter tree as claimed in Group I, but that

the claimed method does not provide a contribution over the prior art. According to the Examiner, USP 4,229,483 to Oura et al. (Oura) describes a process of preparing an aqueous extract of shea nut meal. The Examiner further states that while the extraction of saponins is not explicitly taught in Oura, it is inherently a component of the starting product, so that Applicant's claimed method of making an aqueous extract is anticipated. Therefore, Applicant's claimed invention lacks unity under PCT Rule 13.1 and is subject to restriction.

Applicant elects Group I with traverse. In addition, Applicant elects alkali for Species A, centrifugation for Species B, and a method of obtaining for Species C.

Applicant observes that of the twelve Groups, it appears that claim 9 of Group II is improperly restricted out of Group I (claims 1-8), because Group I is directed to a method of making an aqueous extract comprising saponins on the basis of waste product of the Shea Butter tree, and claim 9 is directed to the product made using the process of claim 1. According to MPEP § 806.05(f):

A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process *as claimed* is not an obvious process of making the product and the process *as claimed* can be used to make "another materially different product"; or (B) that the product *as claimed* can be made by another "materially different" process.

Applicant believes that there is no other materially distinct way to make the product of claim 9 other than the process of claim 1, because that is how claim 9 is defined. Therefore, Applicant suggests that claim 9 should be properly included in Group I.

For the same reasons as described for Group II and claim 9, Applicant also states that claim 11 of Group IV is improperly restricted out of Group III (claim 10), because Group III is directed to a method of producing an aqueous extract enriched in sapogenins, and claim 11 is directed to the product made using the process of claim 10. Applicant therefore suggests that claim 11 should be properly included in Group III.

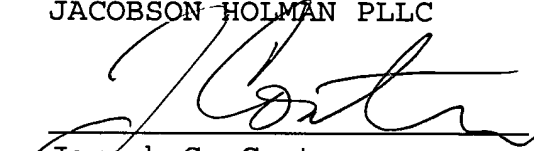
In addition, Applicant believes that the Examiner has improperly applied PCT Rule 13.1 when denying unity of invention in the present application. In particular, § 806.02 of the MPEP states "that for the purpose of a decision on the question of restriction, and for this purpose only, the pending claims are ordinarily assumed to be in proper form and patentable (novel and unobvious) over the prior art". It appears that the Examiner is taking patentability into account when reviewing the groups of inventions under PCT Rule 13.1, which is improper and grounds for traversal.

It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for examination on the merits. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the

Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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